

Bill No. 46-09
Concerning: Personnel – Regulations –
Persons with Disabilities – Hiring
Preference
Revised: January 27, 2010 Draft No.6
Introduced: December 1, 2009
Enacted: February 2, 2010
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Councilmember Andrews, Council Vice President Ervin, Councilmember Trachtenberg,
Councilmember Navarro and Councilmember Berliner

AN ACT to:

- (1) require the Executive to adopt regulations establishing and maintaining a hiring preference for certain qualified persons with disabilities who apply for County merit positions;
- (2) require the preference to apply to a person who is among the highest rating category in a normal competitive process; and
- (3) generally amend the merit system law concerning hiring persons with disabilities and make stylistic and conforming changes to related provisions.

By amending

Montgomery County Code
Chapter 33, Personnel and Human Resources
Section 33-7 and 33-9

Boldface

Underlining

[Single boldface brackets]

Double underlining

[[Double boldface brackets]]

* * *

Heading or defined term.

Added to existing law by original bill.

Deleted from existing law by original bill.

Added by amendment.

Deleted from existing law or the bill by amendment.

Existing law unaffected by bill.

The County Council for Montgomery County, Maryland approves the following Act:

Sec. 1. Sections 33-7 and 33-9 are amended as follows:

33-7. County Executive and Merit System Protection Board responsibilities.

(a) *Generally.* In performing its functions, the Board is expected to protect the merit system and to protect employee and applicant rights guaranteed under the merit system, including protection against arbitrary and capricious recruitment and supervisory actions, support for recruitment and supervisory actions demonstrated by the facts to be proper, and to approach these matters without any bias or predilection to either supervisors or subordinates. The remedial and enforcement powers of the Board granted herein [shall] must be [fully] exercised by the Board as needed to rectify personnel actions found to be improper. The Board [shall] must comment on any proposed changes in the merit system law or regulations, at or before the public hearing thereon. The Board, subject to the appropriation process, [shall] must [be responsible for establishing] establish its staffing requirements [necessary to properly implement its duties] and [to] define the duties of [such] its staff.

(b) *Personnel regulations.* The County Executive [shall] must adopt personnel regulations under Method (1) [of section 2A-15 of this Code].

The personnel regulations [shall] must provide the framework for:

- (1) The classification of all merit system positions in the executive and legislative branches;
- (2) Minimum qualifications for merit system positions, methods of determining qualifications and methods of selection for any positions;
- (3) Probationary periods, promotions, transfers;

(4) Causes for removal from any merit system position and methods of removal, including demotions, furloughs, and reduction of staff. However, any regulations governing a reduction in staff and employee rights attendant thereto shall be restricted to the respective branch of government in which the employee is employed; in the case of the legislative and judicial branches, this sentence shall apply to employees hired by the legislative and judicial branch, respectively, after August 1, 1983.

(5) Annual, sick and other leave;

(6) Prohibitions against political activity;

(7) Maintenance of personnel records; and

(8) Similar personnel matters as may be provided by law.

(c) *Classification standards.* With respect to classification matters, the County Executive [shall] must provide by personnel regulation, adopted [in the manner specified above] under Method (1), standards for establishing and maintaining a classification plan. These standards may include but are not limited to the following:

(1) The necessary components of class specifications;

(2) Criteria for the establishment of new classes, modification or elimination of existing classes;

(3) Criteria for the assignment of positions to classes;

(4) Kinds of data required to substantiate allocation of positions;

(5) Guidelines for comparing levels of job difficulty and complexity; and

(6) Criteria for the establishment or abolishment of positions.

The Board [shall] must conduct or authorize periodic audits of classification assignments made by the Chief Administrative Officer

and of the general structure and internal consistency of the classification plan, and [shall] must submit audit findings and recommendations to the County Executive and County Council.

(d) *Hiring preference for persons with disabilities.*

(1) Findings.

(A) Persons with disabilities are a largely untapped resource for outstanding candidates for County employment.

(B) Persons with disabilities suffer from a high unemployment and underemployment rate in the County due in part to unfounded myths, fears and stereotypes associated with many disabilities.

(C) A hiring preference for persons with disabilities is necessary to remedy past discrimination resulting from these unfounded myths, fears, and stereotypes.

(2) The Executive must adopt by personnel regulation, under Method (1), standards for establishing and maintaining a preference for the initial appointment of a qualified person with a disability into a merit system position. These standards must:

[(1)] (A) define a person with a disability [[who is]] eligible for the preference as:

(i) a person with medical proof of a developmental disability, a severe physical disability, or a psychiatric disability; or

(ii) a veteran rated by the Department of Veterans Affairs with a compensable service-connected disability of 30 percent or more;

80 [(2)] (B) require medical certification of a qualifying
 81 disability;

82 [(3)] (C) establish the following order of preference [[in
 83 relation to other preferences authorized by law]]:

84 (i) an employee who is unable to perform the
 85 employee's job because of a disability or injury
 86 under the ADA;

87 (ii) an employee subject to reduction-in-force;

88 (iii) an employee who was granted a temporary
 89 disability retirement under the Employees
 90 Retirement System or an initial or temporary
 91 disability benefit of any type under the Retirement
 92 Savings Plan or the Guaranteed Retirement Income
 93 Plan but is no longer eligible for such a temporary
 94 disability retirement or benefit;

95 (iv) a veteran with a disability;

96 (v) an equal preference for a veteran without a
 97 disability and a non-veteran with a disability; and

98 [(3)] (D) only apply the preference to a person who is among
 99 the highest rating category in a normal competitive
 100 process.

101 (e) *Personnel regulation review.* The Merit System Protection Board [shall]
 102 must meet and confer with the Chief Administrative Officer and
 103 employees and their organizations from time to time to review the need
 104 to amend these regulations.

105 [(e)] (f) *Adjudication.* The Board [shall] must hear and decide disciplinary
 106 appeals or grievances upon the request of a merit system employee who

has been removed, demoted or suspended and in such other cases as required herein.

[(f)] (g) *Retirement.* The Board may from time to time prepare and recommend to the Council modifications to the County's system of retirement pay.

[(g)] (h) *Personnel management oversight.* The Board [shall] must review and study the administration of the County classification and retirement plans and other aspects of the merit system and transmit to the Chief Administrative Officer, County Executive and [the] County Council its findings and recommendations. The Board [shall] must conduct such special studies and audits on any matter relating to personnel as may be periodically requested by the County Council. All County agencies, departments and offices and County employees and organizations [thereof shall] must cooperate with the Board and have adequate notice and an opportunity to participate in any such review initiated under this Section.

[(h)] (i) *Publication.* Consistent with the requirements of [the Freedom of Information Act] State law, confidentiality and other provisions of law, the Board [shall] must publish, at least annually, abstracts of its decisions, rulings, opinions and interpretations, and maintain a permanent record of its decisions.

[(i)] (j) *Public forum.* The Board [shall] must convene at least annually a public forum on personnel management in the County government to examine the implementation of Charter requirements and the merit system law.

33-9. Equal employment opportunity and affirmative action.

(a) *Policy.* [The county's policy shall be to] Except as provided in Section 33-7(d), the County must take all personnel actions on the basis of merit and fitness without regard to political affiliation or non-merit factors, and without regard to other factors as may be provided for in chapter 27, "Human Relations and Civil Liberties," such as sex, marital status, race, religion, national origin, age or [handicap] disability. The Chief Administrative Officer [shall be responsible for initiating, developing and maintaining] must initiate, develop, and maintain [such] an equal employment opportunity and affirmative action program [as] necessary to ensure that all persons have an equal opportunity to enter and progress in the County's service on the basis of open competition and demonstrated ability. The County Executive [is authorized to issue such] may adopt regulations, [adopted] under Method (1) [of section 2A-15 of this Code], [as necessary] to implement this policy. Such regulations [shall] must provide that an employee whose personal religious beliefs require the abstention from work during certain periods of time may elect to engage in an alternate work schedule in order to meet those religious requirements. The [regulation shall] regulations must [include provision for any] require an employee who elects to work an alternate schedule to [be obligated to] work an equal period of time to that taken off for such religious reasons.

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Approved:

Nancy Floreen, President, County Council

Date

157 *Approved:*

158

Isiah Leggett, County Executive

Date

159 *This is a correct copy of Council action.*

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Linda M. Lauer, Clerk of the Council

Date